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SUBJECT: UN: ICJ PRESIDENT HIGGINS LOBBIES FOR EQUAL PAY  
FOR JUDGES

¶1. SUMMARY: Justice Rosalyn Higgins, President of the International Court of Justice (ICJ), met on November 2 with Ambassador Wallace to request USG assistance in redressing the "invidious situation" created by the General Assembly's decision in Resolution 61/262 to establish a different pay scale for ICJ judges appointed January 1, 2007 and thereafter compared to the salaries paid to judges already on the bench. Justice Higgins said that not only was the GA's decision "not permitted" under the ICJ Statute, it also threatened to undermine "in practical terms" the ongoing functioning of the Court. Ambassador Wallace responded that the U.S. and other Member States were scheduled to discuss this matter in the Fifth Committee (C-5) as part of the Committee's consideration of conditions of service for judges. Justice Higgins' arguments certainly would be taken into account as part of that discussion, as will possible recommendations the SYG may make in his upcoming report on conditions governing service by judges. END SUMMARY.

¶2. ICJ President Higgins met with Ambassador Wallace following her briefings to the UN Security Council and the UN General Assembly, as well as her meeting with members of the GA Sixth Committee (reported septel). She explained to Wallace that paragraph 7 of GA Resolution 61/262, adopted in May 2007, established a serious inequality among the judges "which is prohibited under our Statute." Higgins said that the GA action drew a distinction between judges of the Court appointed prior to January 1, 2007 and those subsequently selected that, in effect, undermined a fundamental principle of the Court. Such discrepancies in treatment of the judges was unacceptable and, from a practical perspective, unworkable. How could one judge earn more than another and still function with a sense of full equality with all other judges on the bench?

¶3. Justice Higgins appealed to Ambassador Wallace for USG assistance in crafting a viable way forward, since the status quo was not sustainable. Ambassador Wallace noted that in the U.S. national judicial system, judges who served as chiefs of their respective courts and those with greater seniority received higher compensation than associate justices. Judge Higgins argued that such an analogy did not apply in the case of ICJ justices who dealt with sovereign states on a regular basis. "The judges can't work that way, nor will the judges sit in a manner that is contrary to the Statute."

¶4. Ambassador Wallace indicated that the GA's Fifth Committee was scheduled as part of its program of work for the 62nd UNGA session to address the issue of conditions of service for judges. Wallace noted that Member States were expecting shortly to receive a report from the Secretary-General addressing compensation and pensions for

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judges - hence, Justice Higgins' views would be considered as part of the Fifth Committee's review of this agenda item. Higgins thanked Wallace, pointing out that the sitting ICJ judges were not looking for more salary or additional benefits, just equal treatment. She said the current arrangements as called for under Resolution 61/262 could not be sustained and might well undermine identifying competent judges for service on the Court when ICJ elections are held in the fall 2008 as part of the 63rd GA.

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